



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Office of the General Counsel

Public Health Division
Room 4A-53 Parklawn Bldg.
5600 Fishers Lane
Rockville, Maryland 20857
(301) 443-2644

August 30, 1995
(Reissue of Memorandum dated August 22, 1995)

NOTE TO MIKE LINCOLN

RE: Use of Federal funds for servicing debt - Choctaw Tribe of Oklahoma.

On August 22, I send you a note with regard to the servicing of debt by the Chickasaw Nation. The tribe involved is the Choctaw Tribe not the Chickasaw Nation. To correct the mistake, I am reissuing the memorandum.

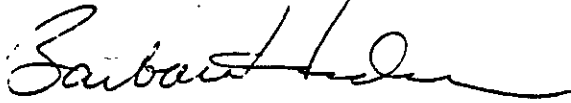
Last week, we met with the Choctaw Tribe of Oklahoma with respect to the possible use of Federal funds for debt service. As I understand it, the Tribe would issue bonds and then use Federal funds to pay back the bond (principal and interest). At the meeting, I indicated that I would review the OMB Circular (A-87) with respect to this issue. The Circular states,

(a) Costs incurred for interest on borrowed capital ... are unallowable except as provided in subsection b. or authorized by Federal legislation.

Section b essentially permits costs for interest if the following four conditions are met:

- (1) The financing is provided .. by a bona fide third party external to the governmental unit;
- (2) The assets are used in support of Federal awards;
- (3) Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate....
- (4) Governmental units will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowances, and contributions) exceed the governmental unit's cash payments and other contributions attributable to that portion of the real property used for Federal awards.

You may want to send a copy of this memo to the tribe. In servicing any debt, the tribe should assure that they are in compliance with the rules of the Circular. If you or the tribe have further questions, please do not hesitate to contact me at 301-443-0406.

A handwritten signature in cursive script, appearing to read "Barbara Hudson", written in dark ink.

Barbara Hudson
Attorney

cc: Reuben Howard/Carol Martin
Office of Tribal Self Governance

Gary Radtke
Office of Environmental Health and Engineering .